



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R02-OAR-2018-0549; FRL-9981-62-Region 2]**

#### **Approval and Promulgation of Implementation Plans; New Jersey;**

#### **Elements for the 2008 8-Hour Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve several State Implementation Plan (SIP) revisions submitted by the State of New Jersey for purposes of implementing Reasonably Available Control Technology (RACT) for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). The EPA is proposing to approve New Jersey's SIP revision for the control and prohibition of air pollution by volatile organic compounds (VOCs) and control and prohibition of air pollution by oxides of nitrogen (NO<sub>x</sub>), as they are intended to satisfy certain control technique guideline (CTG) and NO<sub>x</sub> RACT categories. The EPA is proposing to approve New Jersey's certification that there are no sources within the State for the following CTGs: Manufacture of Vegetable Oils; Manufacture of Pneumatic Rubber Tires; Aerospace Coatings; Shipbuilding and Ship Repair Operations; Metal Furniture Coatings; Large Appliance Coatings; and Auto and Light Duty Truck Original Equipment Manufacturer Assembly Coatings. In addition, the EPA is proposing to approve New Jersey's RACT SIP as it applies to non-CTG major sources of VOCs and major sources of NO<sub>x</sub>. The EPA is also proposing to approve the other portions of the comprehensive SIP revision submitted by New Jersey that certify that the State has satisfied the requirements for an enhanced

motor vehicle Inspection and Maintenance program, certify that the State has satisfied the requirements for an emission statement program, certify that the State has satisfied the requirements for an ozone specific provisions nonattainment new source review program, and show the State has adopted all NO<sub>x</sub> RACT and VOC RACT, as it pertains to the 2008 8-hour ozone NAAQS. These actions are being taken in accordance with the requirements of the Clean Air Act.

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID Number **EPA-R02-OAR-2018-0549** at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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**SUPPLEMENTARY INFORMATION:**

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**I. What action is the EPA proposing?**

The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Jersey on June 11, 2015, for purposes of implementing Reasonably Available Control Technology (RACT)<sup>1</sup> for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). New Jersey's June 11, 2015 SIP submittal consists of a showing that the State meets the RACT requirements for the two precursors for ground-level ozone, *i.e.*, oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act) with respect to the 2008 ozone standard.

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<sup>1</sup> The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979).

This action addresses New Jersey SIP submittals dated June 11, 2015, December 14, 2017, and January 2, 2018. In the June 11, 2015 SIP submittal, the State indicates that the RACT requirements for the 2008 ozone NAAQS have been fulfilled with the exception of sources subject to four Control Techniques Guidelines (CTGs) for source categories represented in New Jersey: Industrial Cleaning Solvents (EPA 453/R-06-001); Paper, Film, and Foil Coatings (EPA 453/R-07-003); Miscellaneous Metal and Plastic Parts Coatings (EPA 453/R-08-003); and Fiberglass Boat Manufacturing Materials (EPA-453/R-08-004). The June 11, 2015 submittal also establishes new limits on NO<sub>x</sub> emissions from existing simple cycle combustion turbines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities and stationary reciprocating engines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities. In a submission received by the EPA on December 14, 2017<sup>2</sup>, titled “Control and Prohibition of Air Pollution by Volatile Organic Compounds and Oxides of Nitrogen,” New Jersey indicates that the RACT requirements for the 2008 ozone NAAQS have been fulfilled for sources subject to the four CTGs identified above that were not addressed in the June 11, 2015 submittal. The EPA is proposing to approve New Jersey’s June 11, 2015 RACT SIP as it applies to non-CTG major sources of VOCs and to major sources of NO<sub>x</sub>. The EPA is proposing to approve New Jersey’s December 14, 2017 submittal addressing the aforementioned four CTGs and establishing new limits on NO<sub>x</sub> emissions.

Also, the EPA is proposing to approve the portions of New Jersey’s SIP revision submitted on January 2, 2018<sup>3</sup>, that certifies the State has satisfied the requirements for a motor vehicle enhanced inspection and maintenance (I/M) program, an emission statement program, an ozone specific provisions nonattainment new source review (NNSR) program, and that the State has

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<sup>2</sup> Submission cover letter dated November 30, 2017

<sup>3</sup> Submission cover letter dated December 22, 2017

adopted all applicable NO<sub>x</sub> RACT and VOC RACT, submitted in the “1997 84 ppb and 2008 75 ppb 8-Hour Ozone Attainment Demonstration Northern New Jersey-New York-Connecticut Nonattainment Area and Nonattainment New Source Review (NNSR) Program Compliance Certification New Jersey Statewide” SIP revision.

The EPA proposes that New Jersey’s SIP submittals are consistent with the EPA’s guidance documents as well as the EPA’s CTG and Alternative Control Technique (ACT) documents and are fully approvable as SIP-strengthening measures for New Jersey’s ozone SIP.

## **II. What is the background for this proposed rulemaking?**

In 2008, the EPA revised the health based NAAQS for ozone, setting it at 0.075 parts per million (ppm), or 75 parts per billion (ppb), averaged over an 8-hour time frame. The EPA determined that the revised 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors and individuals with a pre-existing respiratory disease such as asthma.

On May 21, 2012 (77 FR 30087), the EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 2008 8-hour ozone standard. This action became effective on July 20, 2012. The two 8-hour ozone marginal nonattainment areas located in New Jersey are the New York-Northern New Jersey-Long Island, NY-NJ-CT nonattainment area, also referred to as the New York Metropolitan Area (NYMA), and the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area. The New Jersey portion of the NYMA is

comprised of Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren Counties. On May 4, 2016 (81 FR 26697), the EPA determined that the NYMA did not attain the 2008 ozone standard by the applicable attainment date and is reclassified from a marginal to a moderate nonattainment area. State attainment plans for moderate nonattainment areas were due by January 1, 2017. Since the NYMA has been reclassified to a moderate nonattainment area, New Jersey submitted a new RACT determination as part of the State's attainment demonstration for the 2008 ozone standard.

In areas classified as moderate or areas located in the Ozone Transport Region (OTR) (which includes all of New Jersey) under the 8-hour ozone standard, the definition for major sources is 50 tons per year for VOC and 100 tons per year for NO<sub>x</sub>. New Jersey, however, has an emission threshold of 25 tons per year throughout the state for purposes of the RACT analysis which results in a more stringent evaluation of RACT.

Sections 172(c)(1) and 182(b)(2) of the CAA require states to implement RACT in areas classified as moderate (and higher) nonattainment for ozone, while section 184(b)(1)(B) of the CAA requires RACT in states located in the OTR. Specifically, these areas are required to implement RACT for all major VOC and NO<sub>x</sub> emission sources and for all sources covered by a CTG. A CTG is a document issued by the EPA which establishes a "presumptive norm" for RACT for a specific VOC source category. A related set of documents, ACT documents, exists primarily for NO<sub>x</sub> control requirements. States must submit rules or negative declarations when the State has no such sources for CTG source categories, but not for sources in ACT categories.

However, RACT must be imposed on major sources of NO<sub>x</sub>, and some of those major sources may be within a sector covered by an ACT document.

On March 6, 2015 (80 FR 12264), the EPA published a final rule, herein referred to as the “2008 ozone implementation rule,” that outlined the obligations that areas found to be in nonattainment of the 2008 ozone NAAQS needed to address. The 2008 ozone implementation rule contains, among other things, a description of the EPA’s expectations for states with RACT obligations. The 2008 ozone implementation rule indicates that states could meet RACT through the establishment of new or more stringent requirements that meet RACT control levels, through a certification that previously adopted RACT controls in their SIP approved by the EPA under a prior ozone NAAQS represents adequate RACT control levels for attainment of the 2008 ozone NAAQS, or a combination of these two approaches. In addition, a state must submit a negative declaration in instances where there are no CTG sources. The 2008 ozone implementation rule requires that states with nonattainment areas to submit RACT SIPs to EPA within two years from the effective date of nonattainment designation or by July 20, 2014.

The 2008 ozone implementation rule also states, among other things, that an attainment demonstration should consist of a list of adopted measures (including RACT) with schedules for implementation and other means and techniques necessary and appropriate for demonstrating attainment as expeditiously as practicable but no later than the outside attainment date for the area’s classification. New Jersey submitted an attainment demonstration SIP and EPA will act on it in a separate rulemaking.

### **III. What did New Jersey submit?**

On June 11, 2015, the New Jersey Department of Environmental Protection (NJDEP) submitted to the EPA a formal revision to its SIP. The SIP revision consists of information documenting how New Jersey complied with the RACT requirements for the 2008 8-hour ozone NAAQS, pertaining to the former marginal classification for the NYMA. In its June 11, 2015 submittal, New Jersey certifies that the State's submittal addresses the RACT requirements for the 2008 8-hour ozone standard except that it does not fulfill the requirements of the CTGs for industrial cleaning solvents, paper film and foil coatings, fiberglass boat manufacturing materials, and miscellaneous metal and plastic parts coatings and the requirements of the ACTs for stationary reciprocating internal combustion engines and stationary gas turbines. In New Jersey's June 2015 RACT submittal, the State commits to revise New Jersey Administrative Code, Title 7, Chapter 27 (N.J.A.C 7:27) Subchapter 16 and Subchapter 19 to address those requirements in a timely manner.

On December 14, 2017, the EPA received New Jersey's SIP revision, "New Jersey's Control and Prohibition of Air Pollution by Volatile Organic Compounds and Control and Prohibition of Air Pollution by Oxides of Nitrogen."<sup>3</sup> The December 14, 2017 submittal includes the amendment to N.J.A.C. 7:27, Subchapter 16, "Control and Prohibition of Air Pollution by Volatile Organic Compounds" and Subchapter 19, "Control and Prohibition of Air Pollution by Oxides of Nitrogen" that New Jersey committed to propose and adopt in their June 11, 2015 submittal.

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<sup>3</sup> Effective date November 6, 2017 (49 N.J.R. 3518)



On January 2, 2018, New Jersey submitted, for inclusion in the SIP, the “1997 84 ppb and 2008 75 ppb 8-Hour Ozone Attainment Demonstration Northern New Jersey-New York-Connecticut Nonattainment Area and Nonattainment New Source Review (NNSR) Program Compliance Certification New Jersey Statewide.” In the January 2, 2018 submission New Jersey certifies, among other things, that the State has satisfied the requirements for an enhanced motor vehicle I/M program, an emission statement program, an ozone specific provisions NNSR program, and that the State has adopted all applicable NO<sub>x</sub> RACT and VOC RACT for the moderate NYMA.<sup>4</sup>

In New Jersey’s June 11, 2015 RACT submittal, the State evaluated its existing RACT regulations which were adopted to meet the 1997 8-hour ozone standard to ascertain whether the same regulations constitute RACT for the 2008 8-hour ozone standard. In making its new 8-hour ozone RACT determination, New Jersey referenced EPA’s RACT guidance (“Beyond Volatile Organic Compound-Reasonably Available Control Technology-Control Technology Guidelines Requirements, EPA-453/R-95-010, April 1995) and EPA’s proposed rule “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements.” 78 FR 34178 (June 2013).<sup>5</sup> Accordingly, the basic framework for New Jersey’s June 11, 2015 RACT SIP determination is described as follows:

- Identify all source categories covered by Control Technique Guidelines (CTG) and Alternative Control Technique (ACT) documents.
- Identify applicable regulations that implement RACT.

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<sup>4</sup> The EPA will act on the remainder of New Jersey’s January 2, 2018 SIP revision submittal, including the attainment demonstrations, Reasonable Further Progress (RFP) requirements and other portions at a later date.

<sup>5</sup> The EPA finalized the proposed rule. 80 FR 12264 (March 6, 2015).

- Certify that the existing level of controls for the 1997 8-hour ozone standard equals RACT under the 2008 8-hour ozone standard in certain cases.
- Declare that sources covered by a CTG and ACT do not exist within the state and/or that RACT is not applicable in certain cases.
- Identify and evaluate applicability of RACT to individual sources whose source category does not have a presumptive emission limit covered by a state-wide regulation.
- Identify potential RACT revisions.

In New Jersey's June 11, 2015 submittal, the State certified that all statewide RACT regulations, with the exception of four CTGs and two ACTs, with SIP approved state effective dates prior to the date when the RACT analysis was performed in 2015, are RACT for the 2008 8-hour ozone NAAQS, because the RACT determinations issued by the State are consistent with the most recent control technology and economic considerations. The State's December 14, 2017 submittal addressed the requirements for the four CTGs; the CTG for "industrial cleaning solvents," "paper film and foil coatings," "fiberglass boat manufacturing materials," and "miscellaneous metal and plastic parts coatings" and the two ACTs for "stationary reciprocating internal combustion engines" and "stationary gas turbines." The following discusses the results of New Jersey's analysis of RACT under the basic framework identified above.

#### CTGs and ACTs

New Jersey reviewed its existing RACT regulations adopted under the 1979 1-hour and 1997 8-hour ozone standard to identify source categories covered by the EPA's CTG and ACT

documents. New Jersey's 2015 RACT SIP submittal lists the CTG and ACT documents and corresponding State RACT regulations that cover the CTG and ACT sources included in New Jersey's emissions inventory.

In 2009, New Jersey adopted VOC and NO<sub>x</sub> RACT for major non-CTG sources located in the State. Those sources for which EPA guidance was not published, but for which the State established RACT, include:

1. High Electric Demand Day boilers serving EGUs [N.J.A.C. 7:27-19.4];
2. High Electric Demand Day turbines serving EGUs [N.J.A.C. 7:27-19.5];
3. Asphalt paving production plants [N.J.A.C. 7:27-19.9];
4. Alternative VOC control requirements [N.J.A.C. 7:27-16.17];
5. Alternative and facility-specific NO<sub>x</sub> emission limits [N.J.A.C. 7:27-19.13];
6. Municipal solid waste (MSW) incinerators [N.J.A.C. 7:27-19.12]; and
7. Sewage sludge incinerators [N.J.A.C. 7:27-19.28].

New Jersey has determined that currently effective emission limits for these source categories still represent RACT in 2015 for the marginal classification in the NYMA for the 75 ppb ozone standard.

With the exception of the source categories for which New Jersey has made negative declarations, New Jersey has implemented RACT controls state-wide for all CTGs that the EPA

has issued as of June 2015 to meet the requirements of the CAA. The following table lists the RACT controls that have been promulgated in N.J.A.C. 7:27 and the corresponding EPA SIP approval dates.

N.J.A.C. 7:27 Subchapter	Title	EPA latest approval date
16.2	VOC stationary storage tanks	8/3/10, 75 FR 45483
16.3	Gasoline transfer operations	8/3/10, 75 FR 45483
16.6	Open top tanks and solvent cleaning operations	8/3/10, 75 FR 45483
16.7	Surface coating and graphic arts operations	8/3/10, 75 FR 45483
16.12	Surface coating operations at mobile equipment repair and refinishing facilities	8/3/10, 75 FR 45483
16.16	Other source operations	8/3/10, 75 FR 45483
16.18	Leak detection and repair	8/3/10, 75 FR 45483
16.19	Application of cutback and emulsified asphalts	8/3/10, 75 FR 45483
16.20	Petroleum solvent dry cleaning operations	8/3/10, 75 FR 45483
19.4	Boilers serving electric generating units	8/3/10, 75 FR 45483
19.5	Stationary combustion turbines	8/3/10, 75 FR 45483
19.7	Industrial/commercial/institutional boilers and other indirect heat exchangers	8/3/10, 75 FR 45483
19.8	Stationary reciprocating engines	8/3/10, 75 FR 45483
19.10	Glass manufacturing furnaces	8/3/10, 75 FR 45483
23	Prevention of Air Pollution from Architectural Coatings Standards	12/22/10, 75 FR 80340
24	Consumer products	12/22/10 75 FR 80340
26	Prevention of Air Pollution from Adhesives, Sealants, Adhesive Primers and Sealant Primers	12/22/10, 75 FR 80340

New Jersey's June 11, 2015 RACT submittal contains a table (see Table II-2: RACT

Certifications Based on Existing EPA Guidance) listing all the CTG and ACT categories (67

categories in total) and the corresponding State regulations or negative declarations that address the requirements. The EPA previously approved and incorporated into the SIP all of the State's regulations identified in Table II-2 that address CTGs and ACTs. New Jersey's December 14, 2017 submittal fulfilled the requirement to submit for the four CTGs and two ACTs which are identified in Table II-2 as rules that had not yet been adopted.

For many source categories, the existing New Jersey rules have more stringent emission limits and/or lower thresholds of applicability than the recommendations contained in the CTG and ACT documents. New Jersey considers and certifies that its SIP approved regulations meet the RACT requirements for the 2008 8-hour ozone standard.

*Source Categories Not Applicable in New Jersey*

In New Jersey's 2015 submittal, by comparing the list of existing CTGs with New Jersey's effective rules, and researching the New Jersey Environmental Management System (NJEMS) emission statements and permitting database for source categories by Standard Industrial Code (SIC), the State certifies that the following source-specific categories either do not exist in this State, or fall below significant emission unit applicability thresholds in the CTGs: (1) Manufacture of Vegetable Oils<sup>6</sup>; (2) Manufacture of Pneumatic Rubber Tires; (3) Aerospace Coatings; (4) Shipbuilding and Ship Repair Operations; (5) Metal Furniture Coatings; (6) Large

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<sup>6</sup> The CTG for the manufacturing of vegetable oils was published in June 1978 (see EPA-450/2-78-035) but in a March 1980 guidance document, entitled "Guidance for the Control of Volatile Organic Compounds Emitted by Ten Selected Source Categories," the EPA advised that the "states are not required, at this time, to develop regulations for the vegetable oil manufacturing industry." The EPA guidance has not been revised since the March 1980 guidance. At this time, the EPA considers the vegetable oil CTG as only guidance for states when they need to develop attainment plans in nonattainment areas.

Appliance Coatings; and (7) Auto and Light Duty Truck Original Equipment Manufacturer (OEM) Assembly Coatings.

#### Source-Specific RACT Determinations

A source-specific RACT determination applies to sources that have obtained a facility-specific emission limit or an alternative emission limit, i.e., a variance. A case-by-case RACT analysis is required for sources that are not defined by a specific source category covered by an existing state regulation, that are requesting a variance, or that are not addressed by a CTG. New Jersey's RACT regulations at N.J.A.C. 7:27 Subchapter 19.13 for NO<sub>x</sub> and at Subchapter 16.17 for VOCs outline the process and conditions for granting a source-specific RACT determination. Under the CAA, these individual source-specific RACT determinations need to be submitted by the State as a SIP revision for the EPA's approval. Therefore, New Jersey included Table II-3 in its June 2015 RACT SIP submittal, a listing of VOC and NO<sub>x</sub> source facilities that are subject to a RACT source-specific SIP revision under the 8-hour ozone SIP and the corresponding emission limits, control technology and applicable regulation governing the RACT determinations. Consistent with the CAA, New Jersey submitted to the EPA SIP revisions that included the source-specific RACT revisions identified in Table II-3 of the 2015 RACT SIP submittal. The EPA has approved some of those revisions and is performing its technical review of the remainder of the submittals and will take separate rulemaking actions for each of the source-specific determinations (see 40 CFR 52.1570 (d) "*EPA approved State source-specific requirements*").

#### New Jersey's Control and Prohibition of Air Pollution by Volatile Organic Compounds

New Jersey's December 14, 2017 submittal, which included amendments to N.J.A.C. 7:27, Subchapter 16, addresses sources subject to four CTGs for source categories represented in New Jersey: Industrial Cleaning Solvents (ICS), CTG issued September 2006 (EPA 453/R-06-001); Paper, Film, and Foil Coatings (PFFC), CTG issued September 2007 (EPA 453/R-07-003); Miscellaneous Metal and Plastic Parts Coatings (MMPPC), CTG issued September 2008 (EPA 453/R-08-003); and Fiberglass Boat Manufacturing Materials (FBMM), CTG issued September 2008 (EPA-453/R-08-004). The VOC emission limits adopted by New Jersey and set forth in Subchapter 16 are as effective in regulating the source categories as the EPA's CTG documents.

#### Industrial Cleaning Solvents (ICS)

The EPA issued a CTG for industrial cleaning solvents in 2006 that includes recommended control techniques. This category includes the industrial cleaning solvents used by many industries. It includes a variety of products that are used to remove contaminants such as adhesives, inks, paint, dirt, soil, oil and grease. The recommended measures for controlling VOC emissions from the use, storage and disposal of industrial cleaning solvents include work practice standards, limitations on VOC content of the cleaning materials, and an optional alternative limit on composite vapor pressure of the cleaning materials. They also include the use of add-on controls with an overall emission reduction of at least 85 percent by mass.

Based on the EPA CTG, New Jersey adopted new rules N.J.A.C. 7:27-16.24 which specifies VOC content and vapor pressure limits for solvents used in solvent cleaning activities conducted to remove material through wiping, flushing, or spraying. Facilities can be exempt by annual industrial cleaning solvent usage, based on a purchase limit, and by source operation type.

Compliance can be achieved by meeting a maximum VOC content, a maximum VOC composite vapor pressure, or a minimum control efficiency. Applicable facilities must implement best management practices, which include keeping cleaning materials in closed containers when not in use. Recordkeeping must be maintained which demonstrates compliance. The EPA proposes to find that New Jersey's adopted ICS rules are as effective in regulating the source category as the EPA's CTG document.

*Paper, Film, and Foil Coatings (PFFC)*

The EPA issued a 2007 CTG for paper, film and foil coatings. Previous Federal actions that affected this source category included a 1977 CTG for controlling VOC emissions from surface coating of paper, the 1983 new source performance standards (NSPS) for surface coating of pressure sensitive tape and labels (a subset of this category), and a 2002 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for paper and other web coating. The EPA recommends applying the control recommendations for coatings only to individual paper, film and foil surface coating lines with the potential to emit at least 25 tons per year (tpy) of VOC from coatings, prior to controls. The EPA recommends an overall VOC control efficiency of 90 percent as RACT for each coating line.

New Jersey adopted amendments to N.J.A.C. 7:27-16.7, based on the CTG, which requires paper, film, and foil coating operations to implement best management practices if the actual VOC emissions exceed 15 pounds per day for all coating operations. The EPA proposes to find that New Jersey's adopted PFFC rules are as effective in regulating the source category as the EPA's CTG document.



*Miscellaneous Metal and Plastic Parts Coatings (MMPPC)*

The EPA issued a 2008 CTG for miscellaneous metal and plastic parts coatings. The CTG recommended three options for controlling VOC emissions: (1) VOC content limits for each coating category based on the use of low-VOC content coatings and specified application methods to achieve good transfer efficiency; (2) equivalent VOC emission rate limits based on the use of a combination of low-VOC coatings, specified application methods, and add-on controls; or (3) an overall VOC control efficiency of 90 percent for facilities that choose to use add-on controls instead of low-VOC Content coatings and specified application methods. In addition, the EPA recommended work practices to further reduce VOC emissions from coatings as well as to minimize emissions from cleaning materials used in miscellaneous metal product and plastic part surface coating processes.

New Jersey adopted new rules at N.J.A.C. 7:27-16.15, based on the EPA CTG, which specify an applicability limit of 2.7 tons of actual VOC emissions during any consecutive 12-month period from all miscellaneous metal and plastic part coating operations, including related cleaning activities. Compliance can be achieved by either meeting the maximum allowable VOC content, achieving a minimum 90 percent overall control efficiency, or meeting a minimum overall control efficiency which is based upon the characteristics of the coating. Exemptions include surface coating operations that exclusively use powder coating and metal parts coatings which must comply with a military specification that has been formulated to meet a higher, less stringent VOC content. Applicable facilities must implement best management practices, which include keeping cleaning materials in closed containers when not in use. Recordkeeping must be

maintained which demonstrates compliance. The EPA proposes to find that New Jersey's adopted MMPPC rules are as effective in regulating the source category as the EPA's CTG document.<sup>7</sup>

### *Fiberglass Boat Manufacturing Materials (FBMM)*

The EPA issued a CTG in 2008 that provides control recommendations for reducing VOC emissions from the use of gel coats, resins, and materials used to clean application equipment in fiberglass boat manufacturing operations. The CTG recommends the use of low-VOC content (monomer and non-monomer VOC) resin and gel coats with specified application methods. The CTG recommends the use of covers on mixing containers to further reduce VOC emissions from gel coats and resins. The CTG also recommends the use of low-VOC and low vapor pressure cleaning materials. Because the CTG recommendations are based on the 2001 National Emission Standards for Hazardous Air Pollutants (NESHAP) for boat manufacturing, those facilities that are major sources of HAP are already complying with the 2001 NESHAP and have already adopted these control measures. Because the 2001 NESHAP does not apply to area sources, area source fiberglass boat manufacturing facilities are not currently required to implement the measures provided in the NESHAP and recommended in the CTG. There are boat manufacturing facilities in ozone nonattainment areas that meet the applicability threshold in the CTG and would provide VOC emission reductions when the CTG recommended controls are applied.

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<sup>7</sup> New Jersey's rule includes a partial exemption for military specification coatings from the new VOC limits for metal parts and products, at N.J.A.C. 7:27-16.15(c)(1). N.J.A.C. 7:27-16.15(c)(3)(vii) exempts any military specification coating that has been formulated to meet a higher, less stringent VOC content limit. Additional exceptions include less stringent VOC content limits for extreme high gloss topcoat (craft) and other substrate antifoulant coating than those recommended in the MMPPC CTG. This departure from the MMPPC CTG recommendation is based on EPA guidance memo "Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration".

These control approaches are recommended for all fiberglass boat manufacturing facilities where total actual VOC emissions from all fiberglass boat manufacturing operations are equal to or exceed 15 pounds per day.

New Jersey adopted new rules at N.J.A.C. 7:27-16.14, based on the EPA CTG, which establish an applicability limit of actual VOC emissions, before add-on control, of 15 pounds per day from all fiberglass boat manufacturing operations. Exemptions include production of vessels that must meet military specifications and production of parts of boats that do not involve the manufacture of fiberglass. Compliance can be achieved by meeting a maximum monomer VOC content standard, meeting a maximum monomer VOC mass emission rate, or installation of a VOC control apparatus. Recordkeeping must be maintained which demonstrates compliance. The EPA proposes to find that New Jersey's adopted FBMM rules are as effective in regulating the source category as the EPA's CTG document.

*New Jersey's Control and Prohibition of Air Pollution by Oxides of Nitrogen (Subchapter 19)*

New Jersey's December 14, 2017 submittal, which included amendments to N.J.C.A. 7:27, Subchapter 19, establishes more stringent limits on NO<sub>x</sub> emissions from existing simple cycle combustion turbines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities and stationary reciprocating engines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities. The EPA proposes to find that the NO<sub>x</sub> emission limits adopted by New Jersey and set forth in their December 14, 2017 submittal are as effective in regulating the source categories as the EPA's recommendations and guidance.

*Stationary Natural Gas Compressor Turbines and Reciprocating Engines*

In New Jersey's December 14, 2017 submittal, New Jersey adopted amendments to its rules for stationary gas turbines and engines. New Jersey amended N.J.A.C. 7:27-19.5 by adopting new standards for NO<sub>x</sub> emissions from existing simple cycle combustion turbines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities (compressor turbines). The standard provides, at 7:27-19.5(l) that, beginning November 6, 2019, any simple cycle combustion turbine combustion natural gas and compressing gaseous fuel at a major NO<sub>x</sub> facility shall not emit more than 42 ppm by volume, dry basis (ppmvd), of NO<sub>x</sub> corrected to 15 percent oxygen.

NJDEP amended N.J.A.C. 7:27-19.8 by adopting new standards for NO<sub>x</sub> emissions from stationary reciprocating engines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities (compressor engines). The standard provides, at 7:27-19.8 (g), that beginning November 6, 2019, the owner or operator of a two-stroke lean burn engine capable of producing an output of 200 brake horsepower (bhp) or more but less than 500 bhp, combusting natural gas, and compressing gaseous fuel at a major NO<sub>x</sub> facility shall cause it to emit no more than 3.0 grams NO<sub>x</sub>/brake horsepower-hour (bhp-hr). The standard also provides, at 7:27-19.8 (h), that beginning November 6, 2019, the owner or operator of a four-stroke lean burn engine or four-stroke rich burn engine capable of producing an output of 200 bhp or more but less than 500 bhp, combusting natural gas, and compressing gaseous fuel at a major NO<sub>x</sub> facility shall cause it to emit no more than 2.0 grams NO<sub>x</sub>/bhp-hr.

The EPA proposes to find that the adopted rules are consistent with EPA guidance and address NO<sub>x</sub> RACT requirements by establishing new limits on NO<sub>x</sub> emissions from existing simple cycle combustion turbines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub>

facilities and stationary reciprocating engines combusting natural gas and compressing gaseous fuel at major NO<sub>x</sub> facilities.

*Nitrogen Oxide (NO<sub>x</sub>) Reasonably Available Control Technology (RACT) and Volatile Organic Compounds (VOC) RACT Certification*

In New Jersey's January 2, 2018 submittal, the State certified that they have addressed RACT requirements for the 2008 75 ppb 8-hour ozone NAAQS supported by their June 11, 2015 and December 14, 2017 submittals. EPA proposes to find that New Jersey has demonstrated that it has met the NO<sub>x</sub> RACT and VOC RACT requirements. In some instances, New Jersey has gone beyond RACT by adopting control measures more stringent than the Federal rules and CTGs.

New Jersey's VOC RACT rules cover source categories such as VOC stationary storage tanks, gasoline transfer operations, VOC transfer operations other than gasoline, marine tank vessel loading and ballasting operations, open tanks and solvent cleaning operations, surface coating and graphic arts operations, boilers, stationary combustion turbines, stationary reciprocating engines, asphalt pavement production plants, surface coating operations at mobile equipment repair and finishing facilities, flares, other source operations, leak detection and repair, application of cutback and emulsified asphalts, petroleum solvent dry cleaning operations, natural gas pipelines, and their NO<sub>x</sub> RACT cover source categories such as boilers serving electric generating units, stationary combustion turbines, industrial/commercial/institutional boilers and other indirect heat exchangers, stationary reciprocating engines, asphalt pavement production plants, glass manufacturing furnaces, emergency generators, municipal solid waste (MSW) incinerators and sewage sludge incinerators. These RACT controls that have been

promulgated in N.J.A.C. 7:27, have been approved by the EPA as part of New Jersey's SIP most recently on August 3, 2010<sup>8</sup> and December 22, 2010.<sup>9</sup>

*Enhanced Motor Vehicle Inspection and Maintenance (I/M) Program Certification*

In New Jersey's January 2, 2018 submission, the State certifies that its state-wide rules at N.J.A.C. 7:27-14 and 15, N.J.A.C. 7:27B-4 and B-5 and the Motor Vehicle Commission (MVC) rules at N.J.A.C. 13:20-43, satisfy Federal requirements for an enhanced motor vehicle I/M Program for the 2008 75 ppb 8-hour ozone NAAQS.

Four categories of vehicles are subject to the enhanced I/M program: light-duty gasoline-fueled vehicles, heavy-duty gasoline-fueled vehicles, light-duty diesel-powered vehicles and heavy-duty diesel-powered vehicles. Within each category are commercial and non-commercial vehicles.

EPA approved New Jersey's enhanced I/M program as meeting applicable requirements of the CAA. 67 FR 2811. On April 3, 2009 and September 9, 2016, New Jersey adopted amendments to its enhanced I/M Program. The EPA approved these amendments into the SIP. 83 FR 21174 (May 9, 2018).

*Emission Statement Program Certification*

In New Jersey's January 2018 submittal, the State certifies that its state-wide rules at N.J.A.C. 7:27-21 satisfy Federal requirements for an emission statement program for the 2008 75 ppb 8-

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<sup>8</sup> 75 FR 45483

<sup>9</sup> 75 FR 80340

hour ozone NAAQS. The EPA most recently approved a revision to Subchapter 21 into the SIP on August 3, 2010.<sup>10</sup>

The EPA stated in the 2008 ozone implementation rule that if an area has a previously approved emission statement rule in force for the 1997 ozone NAAQS or the 1-hour ozone NAAQS that covers all portions of the nonattainment area for the 2008 ozone NAAQS, such rule should be sufficient for purposes of the emissions statement requirement for the 2008 ozone NAAQS.

N.J.A.C. 7:27-21 requires the submission of annual emission statements from major facilities. From these statements, the Department develops reports of emissions of all criteria pollutants and submits them to the EPA pursuant to the Federal Air Emission Reporting Requirements (AERR) Rule for uploading to the EPA's National Emission Inventory (NEI).

*Federal Nonattainment New Source Review (NNSR) Program Certification*

In New Jersey's January 2018 submission, the State certifies that its existing state-wide NNSR rules codified at N.J.A.C. 7:27-18, which regulate the New Jersey portions of the Northern NJ-NY-CT and Southern NJ-PA-DE-MD Nonattainment Areas for the 2008 75 ppb 8-hour ozone NAAQS are at least as stringent as the Federal requirements at 40 CFR 51.165 for ozone and its precursors. See 80 FR 12264 (March 6, 2015). The EPA most recently approved a revision to Subchapter 18 into the SIP on July 25, 1996<sup>11</sup>. New Jersey's demonstration that its NNSR rules comply with the ozone specific Federal provisions is provided in Table 8-2 of its submission.

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<sup>10</sup> 75 FR 45483

<sup>11</sup> 61 FR 38591

#### **IV. What is the EPA's evaluation of New Jersey's SIP submittals?**

New Jersey submitted a state-wide RACT assessment on June 11, 2015. The RACT submission from New Jersey consists of: (1) a certification that previously adopted RACT controls in New Jersey's SIP for various source categories that were approved by the EPA under the 1-hour and the 1997 8-hour ozone standards are based on the currently available technically and economically feasible controls and that they continue to represent RACT for the 2008 8-hour ozone standard for implementation purposes; (2) New Jersey's 14 existing case-by-case source specific limits, approved by the EPA for the 1997 8-hour ozone standard, which New Jersey indicates continue to meet RACT for the 2008 8-hour ozone standard; (3) a negative declaration that for certain CTGs and/or ACTs there are no sources within New Jersey or that there are no sources within New Jersey above the applicability threshold; and (4) a commitment to revise and adopt, and submit as a SIP revision, a new or more stringent regulation(s), incorporating four CTGs, if determined to be more effective than current New Jersey requirements, and to consider further limiting NO<sub>x</sub> emissions from natural gas compressor engines and turbines. New Jersey's December 14, 2017 submittal addresses the commitment for the four CTGs and two ACTs. New Jersey's January 8, 2018 SIP revision submittal certified, among other things, that the State's NO<sub>x</sub> RACT, VOC RACT, enhanced I/M program, emission statement program and ozone specific provisions NNSR program satisfy Federal regulations and are at least as stringent as the Federal requirements.

The EPA has reviewed New Jersey's RACT analysis including the state-wide RACT analysis submitted on June 11, 2015, the December 14, 2017 revisions and the January 2, 2018 certification that the State has adopted all applicable NO<sub>x</sub> RACT and VOC RACT. EPA



proposes to find that these submissions fully address the OTR RACT requirements, the moderate RACT requirements for the NYMA and address the RACT requirements consistent with sections 172(c)(1), 182(b)(2) and 182(f) of the CAA, as interpreted by the EPA's regulations, guidance and policies. Also, the EPA has reviewed portions of New Jersey's January 2, 2018 SIP submittal that certify the State has satisfied the requirements for an enhanced motor vehicle I/M program, an emission statement program and an ozone specific provisions NNSR program, and the EPA is proposing to approve the State's certifications.

## **V. What action is the EPA proposing?**

The EPA has evaluated the information provided by New Jersey and is proposing to approve New Jersey's state-wide RACT submittal dated June 11, 2015 and the State's December 14, 2017 SIP revision rule, which include a declaration that the following source-specific categories either do not exist in this State, or fall below significant emission unit applicability thresholds in the CTGs: (1) Manufacture of Vegetable Oils; (2) Manufacture of Pneumatic Rubber Tires; (3) Aerospace Coatings; (4) Shipbuilding and Ship Repair Operations; (5) Metal Furniture Coatings; (6) Large Appliance Coatings; and (7) Auto and Light Duty Truck Original Equipment Manufacturer (OEM) Assembly Coatings. The submittals also include amendments to N.J.A.C. 7:27, Subchapter 16, "Control and Prohibition of Air Pollution by Volatile Organic Compounds," Subchapter 19, "Control and Prohibition of Air Pollution by Oxides of Nitrogen,"<sup>12</sup> for purposes of satisfying the 2008 8-hour ozone standard RACT requirements, NO<sub>x</sub> RACT for major sources, Non-CTG VOC RACT for major sources, all VOC CTG RACT sources and relevant OTR RACT requirements. The EPA is also proposing to approve portions of New

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<sup>12</sup> State Effective dates for both rules is November 6, 2017 (49 N.J.R. 3518)

Jersey's January 2, 2018 SIP revision that certifies the State has satisfied the requirements for an enhanced motor vehicle I/M program, an emission statement program, an ozone specific provisions NNSR program. As indicated in footnote 5, above, the EPA will address the remainder of the January 2, 2018 SIP submittal in a separate rulemaking.

The EPA is soliciting public comments on the issues discussed in this proposal. These comments will be considered before the EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments as discussed in the **ADDRESSES** section of this rulemaking.

#### **VI. Incorporation by reference.**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference of revisions to Title 7, Chapter 27: Subchapters 16 and 19 of the New Jersey Administrative Code that implements New Jersey's RACT regulations for VOCs and NO<sub>x</sub>, as described in section III of this preamble.

The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 2 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

## **VII. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 382, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempt under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking action, pertaining to New Jersey's 2008 8-hour ozone RACT submission the is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Dioxide, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements, Volatile Organic Compounds.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: July 23, 2018.

**Peter D. Lopez,**

*Regional Administrator,*

*Region 2.*

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